UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

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LEVI MALLOY,

v.

Petitioner,

9:19-CV-0988 (GTS/ATB)

M. ROYCE, Superintendent of Green Haven Corr. Facility,

Respondent.

APPEARANCES:

LEVI MALLOY, 14-A-3996
Petitioner, *Pro Se*Green Haven Correctional Facility
P.O. Box 4000
Stormville, New York 12582

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Counsel for Respondent
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New York, New York 10005

LISA E. FLEISCHMANN, ESQ. Assistant Attorney General

GLENN T. SUDDABY, Chief United States District Judge

## **DECISION and ORDER**

Currently before the Court in this habeas corpus proceeding filed by Levi Malloy ("Petitioner") pursuant to 28 U.S.C. § 2254, is the Report-Recommendation of Chief United States Magistrate Judge Andrew T. Baxter recommending that the Petition be denied and dismissed, and that a certificate of appealability be denied. (Dkt. No. 28.) Petitioner has not filed an objection to the Report-Recommendation, and the deadline by which to do so has expired. (*See generally* Docket Sheet.)

After carefully reviewing the relevant papers herein, including Magistrate Judge Baxter's thorough Report-Recommendation, the Court can find no clear-error in the Report-Recommendation. Magistrate Judge Baxter employed the proper standards, accurately recited the facts, and reasonably applied the law to those facts. As a result, the Report-Recommendation is accepted and adopted in its entirety for the reasons set forth therein, Petitioner's Petition is denied and dismissed, and a certificate of appealability is denied.

**ACCORDINGLY**, it is

**ORDERED** that Magistrate Judge Baxter's Report-Recommendation (Dkt. No. 28) is **ACCEPTED** and **ADOPTED** in its entirety; and it is further

**ORDERED** that Petitioner's Petition (Dkt. No. 2) is **<u>DENIED</u>** and **<u>DISMISSED</u>**; and it is further

**ORDERED** that a certificate of appealability is **DENIED**.

Dated: October 14, 2020 Syracuse, New York

> Hon. Glenn T. Suddaby Chief U.S. District Judge

When no objection is made to a report-recommendation, the Court subjects that report-recommendation to only a clear error review. Fed. R. Civ. P. 72(b), Advisory Committee Notes: 1983 Addition. When performing such a "clear error" review, "the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." *Id.*; *see also Batista v. Walker*, 94-CV-2826, 1995 WL 453299, at \*1 (S.D.N.Y. July 31, 1995) (Sotomayor, J.) ("I am permitted to adopt those sections of [a magistrate judge's] report to which no specific objection is made, so long as those sections are not facially erroneous.") (internal quotation marks omitted).